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United Nations Commission on International Trade Law
Thirty-fifth session

Summary record of the 739th meeting
Held at Headquarters, New York, on Monday, 17 June 2002, at 10 a.m.

Temporary Chairman: Mr. Hans Corell (Under-Secretary-General for Legal Affairs, the Legal Counsel)
Chairman: Mr. Abascal Zamora (Chairman of the Committee of the Whole) ..... (Mexico)

Contents

Opening of the session

Election of officers

Adoption of the agenda

Finalization and adoption of the draft UNCITRAL Model Law on International Commercial Conciliation

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The meeting was called to order at 10.30 a.m.

Opening of the session

1. **The Temporary Chairman** invited the members of the Commission to look at their work during the thirty-fifth session from the broader perspective of the social development goals of the United Nations, including those set forth in the Millennium Declaration. Economic growth, political modernization, the protection of human rights and other larger objectives of the United Nations all hinged, at least in part, on "the rule of law", and hence policy makers in developing and transition countries were seeking ways to establish or strengthen the rule of law in their countries. Measures to fight corruption, adopt market-oriented policies and spend more on the needs of the poor were all the more important as globalization advanced and the United Nations searched for solutions to advance sustainable economic growth.

2. The Commission had made a significant contribution to facilitating a number of economic activities that formed the basis of an orderly functioning open economy, thus helping developing countries to fully participate in the benefits of the global marketplace. The economic development that resulted from countries' modernizing and harmonizing their trade laws paid direct dividends to all segments of a developing country's population.

3. The use of electronic commerce, for instance, had become indispensable to developing countries to reduce transaction costs and facilitate penetration in new markets. Electronic commerce could not prosper, however, without the adaptation of national and international laws that had been largely written against the background of paper-based commercial communications. Such adaptation of laws should be based on harmonized and balanced standards such as the UNCITRAL Model Law on Electronic Commerce.

4. Another crucial need was to enhance the conditions under which business entities in developing countries could gain access to credit. Financing to creditworthy enterprises was often not available at commercially affordable terms because many national laws had not been updated. The solution was to prepare internationally harmonized models for such laws that took into account the legitimate interests of creditors and debtors, variations in economic circumstances and different legal traditions, a task being carried out through the UNCITRAL Working Group on Security Interests.

5. The importance of public-private partnerships for achieving sustainable development in the provision of basic public infrastructure had been stressed in the Programme for the Further Implementation of Agenda 21, adopted by the General Assembly in 1997. An essential component of an enabling national environment for such partnerships was a legislative framework that promoted private participation in infrastructure, while taking into account the public interest concerns of the host country. Those were two of the main objectives of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects.

6. One of the most significant barriers to transparent and accountable governance, another pillar of people-centred sustainable development, was the failure to stem corruption. Recent experience in law reform showed that national action plans to combat corruption included revisions of outdated domestic procurement laws and regulations to ensure that they met international standards of good practice in procurement. Perhaps the most widely recognized set of such standards was the UNCITRAL Model Law on Procurement of Goods, Construction and Services. Savings achieved through a modern and transparent procurement system made it possible for Governments in developing countries to reallocate resources to attend pressing social needs.

7. Progressive harmonization and unification of law was an incomplete process, however, without the implementation of international conventions and model laws by States and the fostering of public awareness of those texts. International governmental and non-governmental organizations had joined in the Commission's efforts to carry out such promotional activities. Nonetheless, the success of harmonization efforts depended on ensuring a high level of coordination between all the agencies involved, a function which reflected a fundamental element of the UNCITRAL mandate that could not be delegated to other organizations.

8. The performance of the legal affairs programme of the United Nations had recently been re-evaluated by the Office of Internal Oversight Services (OIOS), and the Secretary-General had transmitted a report thereon to the Committee for Programme and

Coordination for consideration at its forty-second session (E/AC.51/2002/5). Although the overall assessment of the activities had been highly positive, the OIOS survey had identified three areas for improvement. First, there was a need to enhance the substance and depth of coordination among agencies associated with trade law, both within and outside the United Nations system. Aware of that need, the secretariat had begun to use new approaches to draw upon the work done in other forums, including requesting comments from relevant agencies on draft texts. Secondly, OIOS had recommended that the secretariat should increase the range and breadth of its technical assistance in the field of trade law reform. Accordingly, the secretariat was considering a strategy to work jointly with funding agencies supporting trade-related programmes and to increase contributions to its trust funds, including funding from the private sector.

9. Thirdly, doubts had been expressed as to whether the International Trade Law Branch would be able to maintain the quality and efficiency of its work, in view of the fact that staff resources had remained at their 1968 levels. In its conclusions and recommendations, OIOS said that the implementation of a number of recommendations relating to the Office of Legal Affairs might require additional resources, for which OLA should prepare a detailed justification for review through the appropriate programme and budget review processes. He suggested that the Commission should hold informal consultations on that topic during the second week of the current session, and that the consultations should aiso address recommendation 15 of the OIOS report, referring to the secretariat requirements in the light of the expansion in the number of UNCITRAL Working Groups from three to six.

10. He and his colleagues in the Office of Legal Affairs had come to the conclusion that the only workable options were either to reduce drastically the Commission's current work programme or to increase the resources of its secretariat significantly. In that connection, he noted that the Committee for Programme and Coordination was currently meeting to make recommendations on, among other things, the amount of resources to be allocated to strengthening the UNCITRAL secretariat. Those recommendations were crucial for the deliberations of the Fifth Committee of the General Assembly, which would be making the final recommendations to the Assembly.

11. The strengthening of the secretariat was necessary for several reasons: (i) there was a clear demand from Member States for the Commission to prepare legal standards for a globalized economy in areas where until recently the United Nations had not been active; (ii) there was an increased need for coordination among a growing number of international organizations that formulated rules and standards for international trade; and (iii) the increased need for technical assistance would require particular attention on the part of the Commission as the formulating agency when national Governments considered implementation of international standards in domestic legislation.

12. With regard to the Commission's agenda at the current session, he noted that procedures for amicable, non-adversarial settlement of commercial disputes were being increasingly recognized as an indispensable element for promoting international trade. The Commission had already made a significant contribution to the development of such procedures with the adoption of the UNCITRAL Conciliation Rules in 1980. The adoption of the draft Model Law on International Commercial Conciliation would represent yet another valuable contribution by UNCITRAL to the development of efficient dispute settlement mechanisms in international commercial transactions.

Election of officers

13. **Ms. Toe** (Burkina Faso), speaking on behalf of the Group of African States, nominated Mr. Akam Akam (Cameroon) for the office of Chairman.

14. *Mr. Akam Akam (Cameroon) was elected Chairman by acclamation.*

Adoption of the agenda (A/CN.9/503)

15. *The agenda was adopted.*

16. *In the absence of Mr. Akam Akam (Cameroon), Mr. Abascal Zamora (Mexico), Chairman of the Committee of the Whole, took the Chair.*

Finalization and adoption of the draft UNCITRAL Model Law on International Commercial Conciliation (A/CN.9/506, A/CN.9/513 and Add. 1-2 and A/CN.9/514)

17. **Mr. Sekolec** (Secretary of the Commission) said that the work of UNCITRAL on the draft Model Law

had attracted attention in many quarters of the world. For example, a recent conference on ecology in London had devoted a session to the draft and had expressed considerable support for it. In Latin America also there had been a great deal of activity in recent years with regard to mediation and conciliation. The draft Model Law had been taken as a model for national laws in a number of countries, such as Paraguay. Other related activities had been taking place in the Balkans; pilot projects had been established for mediation centres; judges were sending parties to conciliation; and training was being offered for mediators and conciliators. Those efforts were being supported by the Southeast European Cooperative Initiative (SECI) and the United Nations Economic Commission for Europe.

18. The European Union, in an effort to put the topic of mediation high on the agenda, had published a green paper in which it recognized the work of the Commission. The Baltic and International Maritime Council (BIMCO) had also included mediation in its dispute settlement method and had taken the UNCITRAL approach as formulated by the Commission's Conciliation Rules.

19. The text about to be finalized would therefore have a significant impact and would be received with a great deal of interest in different parts of the world. The fact that the draft Model Law had been completed in only four sessions was a tribute to the efficiency and expertise of the Working Group.

20. **Mr. Sorieul** (International Trade Law Branch) drew the Commission's attention to the text of the draft Model Law contained in the annex of the report of the Working Group on Arbitration on the work of its thirty-fifth session (A/CN.9/506); the draft guide to its enactment and use (A/CN.9/514); and a compilation of comments by Governments and international organizations (A/CN.9/513 and Add.1 and 2).

21. Informal consultations had been held on article 15 with a view to achieving a more complete text. The secretariat would provide a summary in due course.

22. **The Chairman** invited delegations to make general comments on the text of the draft Model Law.

23. **Mr. Rendón** (Mexico) said that the text had been approved by consensus within the Working Group. Once adopted, the instrument would prove very useful to domestic as well as international conciliation. Not only did it avoid over-regulation, it also accorded high priority to volition.

24. **Mr. Sekolec** (Secretary of the Commission), responding to a procedural question put by **Mr. Shimizu** (Japan), said that the Commission would be advised to consider the text of the draft Guide to Enactment (A/CN.9/514) after the draft Model Law had been finalized.

25. **Mr. Tang** Houzhi (China) expressed strong support for the draft Model Law. Once adopted, it would constitute one of the two pillars of international commercial conciliation alongside the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the New York Convention"). Although much of the draft was acceptable to his delegation, for the instrument to be fully effective its enforceability should be strengthened. In addition, mediation and arbitration — two important elements in international commercial conciliation — should be more closely linked.

26. **Mr. Medrek** (Morocco) reiterated his country's position that the draft constituted a legal platform for helping countries to introduce amendments as they adapted to current developments. In that regard, the provisions in the draft gave States wishing to incorporate the law into their domestic law the possibility of adapting and amending it in accordance with their own particular situation. As such, the draft law provided an appropriate legal mechanism for resolving disputes.

27. **Ms. Geth-Flemmich** (Austria) expressed strong support for the draft. Her Government was currently considering introducing new legislation on arbitration and was thus following the work of the Commission with particular interest. The UNCITRAL Model Law on International Commercial Arbitration (1985) had inspired legislation in many countries; her delegation was convinced that the Model Law on International Commercial Conciliation would enjoy similar success. It would also set the necessary standards in an important and rapidly evolving area.

28. **The Chairman**, noting that there were no objections to the proposed title, invited the Commission to proceed to a paragraph-by-paragraph analysis of the draft. He would suggest that it postpone consideration of footnote 1 pending issuance of the relevant document (A/CN.9/XXXV/CRP.3).

Draft article 1. Scope of application and definitions

29. **Mr. Medrek** (Morocco) reiterated his delegation's position that the title of article 1 should be amended to read: "Definitions and scope of application".

30. **Mr. Shimizu** (Japan) said that it could appear from the current article 1, paragraph (1), that enacting States would be required to apply the Model Law directly to international commercial conciliation regardless of applicable law under private international arbitration rules. Since the instrument would constitute a model law rather than a convention, different versions would be incorporated into national legislation, creating a conflict of law situation. It was his own delegation's understanding that article 1 was not, however, intended to replace or exclude the application of existing rules of international law. If the Commission shared that interpretation, it should be reflected in the draft Guide.

31. **Mr. Sekolec** (Secretary of the Commission) said that in accordance with past practice, any ruling from the Commission on Morocco's proposal concerning the title of article 1 would be implemented by a drafting group comprising delegates working in each of the six languages and assisted by professional language revisers. Subsequently, a revised text would be submitted to the Commission for consideration.

32. **The Chairman** said that unless the Commission adopted a definitive wording in a particular instance, the formulation of the titles of articles was generally considered a drafting exercise to be undertaken by the drafting group. The secretariat had taken note of the comment made by the representative of Japan, which essentially related to the draft Guide.

33. **Mr. Kovar** (United States of America), addressing the concern raised by the representative of Japan, said that it was not clear to his delegation in what circumstances a conflict-of-law situation might arise. Presumably, it would be a question of whether some forum law applied. If the issue was to be treated in more detail in the draft guide, the Commission's choice-of-law experts should be allowed sufficient time for careful consideration.

34. **Mr. Shimizu** (Japan) said that different versions of the Model Law would exist at the national level, but that the connecting factor would be that its application would be triggered if the parties to an agreement to conciliate had their places of business in different States. Confusion might thus arise as to which version of the Model Law applied in a particular case, even if the law of the forum governed the Law's effect.

35. **The Chairman** said that the previous speaker's point underlined the importance of incorporating a Model Law without changes.

36. **Mr. Meena** (India) said that India's arbitration and conciliation act was based on the UNCITRAL Model Law on International Commercial Arbitration, with a separate section on conciliation. The act did not in any way differentiate between domestic and international conciliation. The Working Group, for its part, had advised States to maintain two sets of rules governing the settlement of disputes, in order to avoid unnecessary interference with domestic laws. His delegation however wished to question the practicability of such an approach.

37. **The Chairman** said that although the Working Group had discussed the issue extensively, no agreement had been reached. A number of participants had considered that the Model Law should cover only international conciliation, while others had maintained that it should be made equally applicable to domestic and to international conciliation. In order to avoid a situation of two separate bodies of law, a compromise solution had been set out in footnote 1, offering States the option of changing certain provisions if they wished the Law to apply to both types of conciliation. In an analogous situation, Mexico, upon enacting the UNCITRAL Model Law on International Commercial Arbitration, had modified certain provisions to make the Law apply to national as well as international arbitration.

38. He took it that the Commission wished to approve draft paragraph (1) provisionally and to postpone adoption of footnote 1 pending issuance of the relevant document.

39. *It was so decided.*

40. **Mr. Kovar** (United States of America), referring to draft paragraph (2), said that the draft Guide might include a provision to the effect that courts, in interpreting the paragraph, might wish to consider conduct of parties demonstrating their understanding or expectation of being engaged in conciliation.

41. *Draft paragraph 2 was provisionally approved.*

42. **Mr. Markus** (Observer for Switzerland) said that in his view, subparagraph (ii), of draft article 1, paragraph (3) (b), gave a general example of international conciliation of which subparagraph (i) was merely a specific example. Subparagraphs (i) and (ii) should therefore logically be reversed so that the general principle was followed by a specific expression of that principle.

43. **The Chairman** suggested that the question could be referred to the drafting committee.

44. **Mr. Jacquet** (France) said that his delegation was reluctant to support the suggestion made by the observer for Switzerland, as it considered that subparagraphs (i) and (ii) referred to different issues. He urged the Commission to remember that the primary goal of paragraph (3) (b) was not to resolve a conflict of laws, but simply to set out what made conciliation international in character. Subparagraph (i) was the simplest and most objective way of summarizing that international character. Subparagraph (ii) was more complicated, and perhaps also debatable, in that it used wording more commonly associated with resolving a conflict of laws. The delegation therefore favoured retaining the original order of subparagraphs (i) and (ii).

45. **Mr. Morán Bovio** (Spain) said that his delegation had initially been sympathetic to the view of the Observer for Switzerland, but had then found the reasoning put forward by the delegation of France convincing. He considered that the two subparagraphs in question adequately covered the issue of international character, and fully supported the Chairman's suggestion that the matter should be referred to the drafting committee to settle the sequence in which they occurred, particularly since the delegation of France had shown that the matter was perhaps less simple than it seemed at first sight.

46. **The Chairman** said that it was true that what appeared to be a simple suggestion regarding wording could sometimes turn out to be a more complicated problem of interpretation. More exploration and guidance were perhaps warranted.

47. **Mr. Möller** (Observer for Finland) said the agreed with the delegation of France that the order of subparagraphs (i) and (ii) of paragraph (3) (b) should not be reversed. Such a step might have been logical had the primary issue been one of a conflict of laws, but it was not. The provisions had been discussed in depth in the Working Group, so making alterations as a matter of taste rather than on the grounds of compelling reasons was not advisable.

48. **The Chairman** said that he wished to clarify how he saw the situation: the Working Group had discussed that and other issues at great length to produce the draft Model Law before the Commission. Although it was not final, he agreed with the Observer for Finland that changes to the draft needed to be backed up by compelling reasons rather than be simple suggestions. The rules needed to be clear, and he appealed for anyone with questions about such a working method to raise them with him.

49. **Mr. Holtzmann** (United States of America) welcomed the Chairman's statement of his view of the rules, and concurred with them. Thanks to the incisive analysis made by the delegation of France, he saw strong reasons to leave the wording of draft article 1, paragraph (3), as it was. Moreover, the issues were listed in the present draft Model Law in the same order that they were listed in the UNCITRAL Model Law on International Commercial Arbitration. That too had been the result of long discussion, and he saw great advantages in maintaining consistent UNCITRAL practice. He favoured leaving the wording unchanged, but if the matter was referred to the drafting committee, he asked for that committee to consider his observations.

50. *Draft paragraph (3) was provisionally approved.*

51. **The Chairman** asked if there were comments on draft paragraph (4), a provision which also existed in other UNCITRAL instruments, such as the Model Law on Electronic Commerce.

52. *Draft paragraph (4) was provisionally approved.*

53. **The Chairman** asked if there were comments on draft paragraph (5), which allowed parties to "opt in", voluntarily applying the Model Law to conciliation procedures even if the latter were not within the Law's remit or were not international.

54. **Mr. Jacquet** (France) said that the wording of paragraph (5) had been thoroughly discussed, and his observation related not to substance but to form. He thought that the wording corresponded to that in the UNCITRAL Model Law on International Commercial Arbitration which allowed arbitration cases to be considered voluntarily to be international. The present Model Law posed nothing more than a problem of

wording, though at the current stage of debate, issues of wording were significant. In the light of the fact that draft article 1, paragraph (1), already allowed parties to enact the Model Law to apply to domestic as well as international conciliation, he asked if it was advisable to retain draft article 1, paragraph (5), as it would have no relevance whatsoever for those parties.

55. **Mr. Sorieul** (International Trade Law Branch) pointed out that the Commission's discussion of footnote 1 to draft article 1, paragraph (1), should not be pre-empted. Document A/CN.9/XXXV/CRP.3, which had not yet been distributed, would explain that one of the consequences of extending the scope of the Model Law to domestic conciliation would be a change in the wording of paragraph (5). As he remembered it, that change referred to the Model Law applying to commercial conciliation "whenever the parties agreed that it should".

56. *Draft paragraph (5) was provisionally approved.*

57. **The Chairman** asked if there were comments on draft article 1, paragraph (6), which had the opposite effect of paragraph (5), allowing parties to "opt out" of applying the Model Law to conciliation procedures.

58. **Mr. Milassin** (Hungary) said that his delegation had submitted written remarks concerning paragraph (6) which he saw no use in repeating. It was prepared to accept paragraph (6) as it stood, but said that if no changes were made to it, agreement would have to be reached on whether the parties should be able to opt out of the whole of the Model Law, or only a part of it. His delegation favoured a partial opt-out.

59. **Mr. Shimizu** (Japan) said that his delegation found it difficult to interpret paragraph (6) in the light of the existence draft article 3, which affirmed the principle of party autonomy and seemed to make paragraph (6) redundant. Furthermore, draft article 3 listed some provisions from which the parties could not agree to derogate, in other words, a restriction of party autonomy, while paragraph (6) stipulated no such restrictions. It would perhaps be best to delete draft article 1, paragraph (6), particularly as it had no equivalent in Model Law on International Commercial Arbitration, and concern for consistency was not therefore an issue.

60. **The Chairman** said that his recollection from the Working Group's discussions was that paragraph (6) existed to cover the very important issue of the scope of the Model Law, providing an opportunity to decline to apply it. If the Model Law was applied, however, draft article 3 would come into play, as would its restriction on derogations. It reflected the Working Group's desire to ensure that once parties did apply even part of the Model Law, uniformity of interpretation was retained (draft art. 2) and fair and equal treatment was maintained during conciliation (draft art. 7, para. (3)).

61. **Ms. Beleva** (Observer for Bulgaria) said that like the representative of Japan she had wondered about the scope of paragraph (6), bearing in mind that the very foundation of conciliation was autonomy and free will. In the light of the Chairman's explanation, however, she believed that paragraph (6) should be retained.

62. **Mr. Barsy** (Sudan) said that paragraph (6) was too important to delete; however, the Commission might wish to defer that decision until it had concluded its discussion and had a better overview.

63. **The Chairman** said he would take note of the Sudanese proposal but, in the absence of other input, he would take it that the Commission supported the text as drafted by the Working Group.

64. *Draft paragraph (6) was provisionally approved.*

65. **The Chairman** invited the Commission to consider paragraph (7) of article 1.

66. *Draft paragraph (7) was provisionally approved.*

67. **The Chairman** invited the Commission to consider paragraph (8), including its subparagraph (a) and a subparagraph (b) which would permit certain exclusions by States implementing the law.

68. **Mr. Shimizu** (Japan) asked whether subparagraph (a) could be broadly interpreted to include court-annexed procedures by which conciliation took place in Japan.

69. **The Chairman** said that they could be included under paragraph (7) but not paragraph (8), which described cases where the judge or arbitrator himself was involved in the conciliation proceedings.

70. **Mr. Graham** (Mexico) said that the aim of the draft guide to enactment was not to inhibit or prohibit the participation of a judge or arbitrator in the conciliation efforts, but to make it clear that judges or arbitrators were subject to the specific laws governing judges or arbitrators rather than to the Model Law.

71. **Mr. Tang** Houzhi (China) said that although, in the Working Group, China had been in favour of deleting the paragraph, which seemed to impede the participation of judges or arbitrators in settlement proceedings, it had later realized that, on the contrary, the provision actually fostered their participation. His delegation therefore believed that the paragraph should be retained.

72. **Mr. Shimizu** (Japan) enquired about the rationale behind the paragraph and the specific elements which had determined that the Model Law should not apply in such cases.

73. **The Chairman** said that, as the representative of Mexico had indicated, the action that could not be taken by a judge or arbitrator should be determined by the relevant laws of civil procedure in each country. In certain parts of the world, it was perfectly acceptable for the judge or arbitrator to act as conciliator, while in others, it was not. The Model Law deliberately refrained from determining either the legality or the desirability of such a practice.

74. **Mr. Möller** (Observer for Finland) fully agreed with the Chairman about the nature and purpose of the paragraph. Even if it had not been included, the content of the paragraph would be implicit in the Model Law. It was a given that judges and arbitrators could not exceed what was set out in the claims and counterclaims of a case, but the extent of their involvement was very different, depending on the legal system. For the sake of clarity, the inclusion of paragraph (8) was essential.

75. **Mr. García Feraud** (Observer for Ecuador) characterized the issue as "pedagogical". In a number of Latin American countries, such as his own, arbitral proceedings or mediation would be viewed as a preliminary phase prior to the actual conciliation of the parties. That was just one of many variations that could occur in different legal systems.

76. **Mr. Jacquet** (France) expressed full agreement with the interpretations given by the Chairman and the Observer for Ecuador but said that the Model Law could be applied at the request of both parties to an arbitral (but not a court) proceeding, which would constitute an exception under the provisions of article 1, paragraph (5).

77. **The Chairman** said the comment of the representative of France would be taken into consideration in the draft guide to enactment.

78. **Mr. Tang** Houzhi (China) said that the paragraph should be retained as drafted, since it did not bar a judge or arbitrator from attempting to facilitate a settlement. Where such conciliation occurred, the Model Law would simply not be applicable. His understanding of the paragraph was slightly different from that of the Chairman or the representative of France; he believed that the paragraph was closely related to article 16, and he would elaborate further on that point at the appropriate time.

79. **The Chairman** said that paragraph 130 of document A/CN.9/506 contained the text of article 16, which the Working Group had decided to delete. The representative of China could propose that it should be reinstated before the Commission discussed draft article 15.

80. **Mr. Meena** (India) said that his delegation had no difficulty in agreeing to the retention of paragraph (8), whereby an attempt by an arbitrator to facilitate a settlement did not constitute an act of conciliation. The parties were free to reach a compromise at any time during the course of arbitral or court proceedings. An arbitrator or court should not be prevented from acting as facilitator, should the parties opt for a compromise over a court decision on the merits.

81. **Mr. Joko Smart** (Sierra Leone) said that, if a judge acted as conciliator during a court proceeding in order to facilitate a settlement, the parties' acknowledgement that it had been a mistake to come before the court could be incorporated in the judgement and the Model Law would not apply, in accordance with the final sentence of article 1, paragraph (2). Since paragraph (8) clarified and reinforced that point, it would be useful to retain it.

82. **Mr. Barsy** (Sudan) said that his delegation was in favour of retaining the paragraph, particularly with regard to judgements. Indeed, judges' attempts to reconcile the parties were based on domestic civil codes, which generally included conciliation procedures. If the judge brought about a settlement, it could be incorporated in his decision and there would be no problem in applying it.

83. **The Chairman** said that, although some delegations, seemed to construe subparagraph (a) as

permitting a judge to act as conciliator in court proceedings, that was neither the import of the subparagraph nor the intention of the Working Group. Paragraph (8) merely stated that the Model Law was not applicable in certain situations, which left States the latitude to construe it in the context of their domestic law.

84. *Paragraph (8) (a) was provisionally approved.*

85. **The Chairman** noted that no mention had been made of paragraph (8) (b), which could be relevant in labour law or in areas subject to domestic regulation, such as finance, insurance or stock market transactions.

86. **Mr. Rendón** (Mexico) said that the decision made at the previous session to refer to "*panel de conciliadores*" in the Spanish version was reflected in draft article 5, but not in draft articles 1, 7, 8, 9 and 12. He hoped the Drafting Group would make the necessary corrections.

The meeting rose at 12.50 p.m.